

**SMALL COMPANY RATE CASE WORKING GROUP  
REPORT FOR THE MAY 26, 2004 CASE EFFICIENCY ROUNDTABLE**

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**Working Group Members**

Group Leader

Dale Johansen – PSC Staff

Industry Representatives

Neal Cleavenger – Raytown Water Company

Dave Gibson – Empire District Electric Company

Rick Helms – Foxfire Utility Company and Roark Water & Sewer Company

Kathy Pape – AquaAmerica

Utility Bar Representatives

Trip England

Jerry Finnegan

Diana Vuylsteke

OPC Representatives

Kim Bolin

Ruth O'Neill

PSC Staff Representatives

John Cassidy

Cary Featherstone

Keith Krueger

Greg Meyer

Kay Niemeier

Mike Scheperle

**Working Group Meetings and Results**

The Working Group held meetings on April 21, April 28 and May 12. The minutes of each of these meetings are attached to this report.

During the Working Group's meetings, numerous topics were discussed among the participants and consensus was reached on several matters, including the following projects that the participants agreed should be recommended to the Case Efficiency Roundtable on May 26.

- (1) Developing a "How To" Booklet for the Small Company Rate Case Procedure
- (2) Modifying the Staff's Timeline for the Small Company Rate Case Procedure
- (3) Modifying the Staff's Overview of the Small Company Rate Case Procedure
- (4) Rewriting the Commission's Rules Regarding the Small Company Rate Case Procedure

In addition to the above agreed-upon projects, it was agreed that future Working Group meetings should be held for continued discussions regarding several matters upon which agreement has not yet been reached, and to finalize the work products for the agreed-upon projects.

Brief summaries of each of the projects agreed upon by the meeting participants, and of the matters that the meeting participants agreed should be discussed during future Working Group meetings, are set out in the following sections of this report.

### **Summaries of Agreed-Upon Projects**

#### **Developing a "How To" Booklet for the Small Company Rate Case Procedure**

Explanatory documents regarding the procedure and "templates" for documents routinely used by companies as a part of the procedure, which could be included in a How To booklet, include the following (all of these documents are currently available in an electronic format).

- \* Procedure Overview
- \* Standard Activity Timeline
- \* Commission Rules
- \* Templates for Company Request Letter
  - \* Combined Sewer/Water Services
  - \* Sewer Service
  - \* Water Service
- \* Templates for Company Customer Notices
  - \* Initial Notice
  - \* Second Notice
  - \* Notice for Local Public Hearing
- \* Templates for Disposition Agreements
  - \* Unanimous Agreement
  - \* Company/Staff Agreement
- \* Templates for Company Tariff Filing Letters
  - \* Tariff Filing re: Unanimous Agreement
  - \* Tariff Filing re: Company/Staff Agreement

### Modifying the Staff's Timeline for the Small Company Rate Case Procedure

Several modifications to the Staff's existing Timeline for the procedure, a copy of which is attached to this Report, were discussed and agreed upon during the Working Group's meetings. All such agreed-upon modifications, many of which are related to target completion dates for company-required activities being added to the Timeline, are detailed in the Minutes of the Group's April 28 meeting, with the exception of the movement of the local public hearing date (that item is also discussed in the Minutes of the May 12 meeting; however, a final agreement regarding this has not yet been reached).

Dale J is developing an updated Timeline Template that incorporates the Working Group's agreed-upon changes. (It should also be noted that additional changes to the Timeline Template will be needed in the event that the Commission's rules regarding the small company procedure are amended, as is being recommended by the Working Group.)

### Modifying the Staff's Overview of the Small Company Rate Case Procedure

Several modifications to the Staff's existing Procedure Overview document, a copy of which is attached to this Report, are now needed due to the changes in the procedure Timeline discussed above; however, a couple of other modifications were also agreed upon by the Working Group. Specifically, it was agreed that the document needs to be modified to more clearly explain what the "Day 150" tariff-filing deadline actually represents, and that examples of the various alternatives that can exist at the end of the procedure should be included in the document. It was also agreed that the document needs to be changed to reflect an agreed-upon change in the procedure whereby agreements regarding the extension of the "Day 150" tariff-filing deadline will be reduced to writing at the time the agreement is reached and will also be submitted to the EFIS tracking file at that time (this change also needs to be reflected in the proposed rewrite of the rule).

Dale J is developing an updated Procedure Overview that incorporates the Working Group's agreed-upon changes. (It should also be noted that additional changes to the Procedure Overview will be needed in the event that the Commission's rules regarding the small company procedure are amended, as is being recommended by the Working Group.)

### Rewriting the Commission's Rules Regarding the Small Company Rate Case Procedure

Dale J's original proposed rewrite of the sewer rule (3.330), a copy of which is attached to this Report, was used as the starting point for discussions during the Working Group's meetings. Most of the Group's discussions regarding this matter focused on the proposed changes addressed by the following Sections of the draft rewrite. The Group's discussions and conclusions regarding these matters are included in the Minutes of the meetings, and brief summaries of the conclusions are also included below.

Section (2) – provisions regarding "practice" by non-attorneys

Conclusions: This will not work and this section should be removed.

Section (9) – provisions establishing a formal case very early in the process

Conclusions: The "pros" of doing this outweigh the "cons" and this should be done.

Section (16) – provisions for holding an informal "local public meeting" early in the process

Conclusions: This would not be sufficient as a replacement for OPC's potential need for an on-the-record local public hearing and this Section will thus be removed.

Section (23) – provisions regarding requests for local public hearings and the timing of the request and the hearing

Conclusion: These provisions should be moved to earlier in the process, but it has not yet been decided where to move them. Further discussions about this will be held.

Sections (28) thru (33) – provisions regarding resolution of disputes that are now the basis of "agreements to disagree", through the use of a limited scope testimony/hearing process

Conclusions: Something along this line would be beneficial in several respects, but it was agreed that an arbitration type approach, with the Commission sitting as an arbitration panel, would be preferable to the testimony/hearing approach. Ruth O is working on language in this regard for inclusion in the final proposed rewrite. Additionally, it was agreed that the provisions regarding some rate increases going into effect before the dispute resolution process is completed should be removed.

Dale J is developing an updated draft of the proposed rewrite of the sewer rule that incorporates the Working Group's agreed-upon changes.

### **Summaries of Topics for Further Discussion**

- \* Whether the Small Company Rate Increase Requests Should be Subject to the Large Company Rate Case 11-Month Time Frame for Completion, With the Starting Date for the 11-Month Period Being the Date the Request is Submitted to the Commission
- \* Utilizing a "Pass Through" Approach for Recovery of Increases in Wholesale Water Costs Implemented Pursuant to Supplier Contracts
- \* Use of Special Ratemaking Approaches Such as Surcharges, "Economic" Depreciation Rates or Special Amortizations to Provide for More Timely Recovery of Financing Costs Where Loan Payback Periods are Much Shorter than Recovery Period by Traditional Rate-Base-Rate-of-Return Ratemaking (the EIERA Loan Program Surcharge Approach)
- \* Need for Recognition and Recovery of Outside Consulting Fee Expenditures Necessary in Order for a Company to Respond to Data Requests and for Review and Evaluation of the Results of the Staff's Audit Findings and Recommendations

### **List of Attachments**

Minutes of the April 21 Meeting

Minutes of the April 28 Meeting

Minutes of the May 12 Meeting

Timeline Template Prior to Meetings

Procedure Overview Prior to Meetings

Draft Rewrite of Sewer Rule Prior to Meetings

## **Small Sewer & Water Company Rate Increase Procedure**

Historically, the vast majority of the sewer and water utilities that the Commission regulates have been relatively "small" and, because of this, generally lacking in the resources available to larger regulated utilities. As a result, the Commission promulgated a rule that provides a procedure under which small sewer and water companies can request increases in their operating revenues without the necessity of filing a formal rate case as otherwise required by the Commission's rules (a rule also exist for small gas utilities).

The small company rate increase procedure, which has been in use for many years, has proven successful in allowing qualifying sewer and water companies to recover increases in their cost of providing service without great expense for the utilities, which also thus results in lower rates for the utilities' customers. The procedure also provides for a shorter time frame in which rate increases may be implemented, as compared to the formal rate case procedure used by larger companies.

The small company rate increase procedure was originally found in Rule 2.200 in Chapter 2 of the Commission's rules; however, Rule 2.200 was "transferred" to three new rules in Chapter 3 (one for gas utilities, one for sewer utilities and one for water utilities) as a part of the Chapter 3 rulemaking project. The applicable Commission rules allow sewer and water utilities serving 8,000 or fewer customers to use the small company rate increase procedure, which has historically been called the "informal" rate case procedure. (Currently, all sewer companies and all but one water company that the Commission regulates qualify to use the small company rate increase procedure.)

An overview of the small sewer and water company rate increase procedure is set out on the following pages.

Last Updated 04.16.04 – dalej

Note: Areas highlighted in yellow will be changed in the near future.

### **What Is The Purpose Of The Procedure And Who Benefits From It?**

- A) The purpose of the Procedure is to simplify the rate case process for qualifying utilities, which results in both time and cost savings.
- B) Beneficiaries of the Procedure are the involved utility and the utility's customers, both of which benefit from the cost savings inherent in the process.

### **What Size and Numbers of Utilities Qualify For The Procedure?**

- A) Water & Sewer Utilities with 8,000 or Fewer Customers
  - 1) Approximately 70 Water Utilities *(all that we regulate except the MAWC system)*
  - 2) Approximately 60 Sewer Utilities *(all that we regulate)*

### **How Many Requests Are Normally Processed In A Year?**

An average of 15 to 20 "original" requests per year over FY1999 thru FY2003, plus overlap from year to year, generally split about evenly between Water & Sewer Utilities.

## How Does The Procedure Get Started?

### A) Company Submits Letter Requesting Increase in Operating Revenues

- 1) Letter is Addressed to the Secretary of the Commission with a Copy Provided to the Office of the Public Counsel ("OPC")
- 2) Letter Must Include the Amount of the Requested Annual Revenue Increase
- 3) Letter Must Include the Reasons for the Requested Annual Revenue Increase
- 4) Current Annual Report Must be on File and the Letter Must State This
  - a) Company Must Stay Current on Filings During the Time the Request is Under Review  
(Staff position)
- 5) Company Must be Current on All of Its Assessment Payments and the Letter Must State This
  - a) Full Payment Already Made on Prior Years' Assessments
  - b) Current Year's Assessments Paid in Full or Payments Being Made Quarterly
  - c) Company Must Stay Current on Payments During the Time the Request is Under Review  
(Staff position)

### Notes

*(1) If requested ahead of time, the Water & Sewer Department Staff will prepare a draft of the revenue increase request letter for the company to use in submitting its request.*

*(2) Companies providing both water and sewer service can submit a single letter, but the revenue increase request information must be segregated for each service and separate EFIS "Work Files" are created for each service.*

### **What Period Of Time Is Involved In The Procedure?**

- A) Agreement Regarding the Request is to be Reached & Reduced to Writing and Tariff Revisions Based on the Agreement are to be Filed Within 150 Days from the Date the Letter Initiating the Procedure is Submitted and Accepted *(the written agreement is filed by the Staff shortly after the tariff revisions are filed by the Company)*
- 1) 150-Day Period can be Extended by Consent of the Company and Staff
    - a) Consent for Extension is Filed Along With the Tariff Revisions or is Included as a Part of the Written Agreement
- B) No Time Frame is Specified for Completion of the Overall Procedure After the Company Files Its Tariff Revisions
- 1) If Needed, the Company Extends the Effective Date of the Tariff Revisions or the Commission Suspends the Tariff Revisions



## What Happens When A Request Is Submitted?

- A) Request Letter is Received in Data Center, Stamped "Received", Scanned and Entered into EFIS, EFIS Work I.D. Number is Assigned and EFIS "Work File" is Created *(if a letter contains requests dealing with both water and sewer service it is scanned twice to create a separate EFIS Work File for each request: QS = sewer request & QW = water request) (subsequent to EFIS Work File being established a notification of the submission is sent by EFIS to the Manager of the Water & Sewer Department (W/S Dept) and the Utility Services Division and the original increase request letter is forwarded to the W/S Dept) (tariff revisions are not submitted at this time)*
- B) Review & Acceptance of Request by Utility Services and W/S Dept
- 1) Annual Report Filing Status is Verified *(Utility Services)*
  - 2) Assessment Payment Status is Verified *(Utility Services)*
  - 3) Letter is Reviewed to Ensure Inclusion of Required Information *(W/S Dept – Case Coordinator)*  
*(The W/S Dept's Rate & Tariff Examination Supervisor is the Case Coordinator for all small company rate increase requests)*
  - 4) If Everything is O.K. – Case Coordinator Moves Forward with Processing the Request
  - 5) If Everything is Not O.K. – Case Coordinator Returns Letter to Company, Along With Explanation of the Deficiencies and Company is Advised that Deficiencies Need to be Corrected by a Date Certain – If Deficiencies are Not Corrected by the Date Established the Request is Considered "Closed", the Company is so Notified and a Notice of This is Submitted to the EFIS Work File
- B) Initial Processing Actions Taken by Case Coordinator
- 1) Standard Case Activity Timeline Including "Target Dates" for Relevant Staff Work Activities is Developed *(a copy of a "generic" timeline is attached hereto)*
  - 2) Accounting Department, Engineering & Management Services Department ("EMSD"), Financial Analysis Department and General Counsel's Office are Sent Notice of the Request, are Asked to Assign Personnel to Review the Request and are Provided a Copy of the Case Activity Timeline
  - 3) Drafts of Initial Customer Notice and Letter for Submitting the Notice to the Data Center are Prepared and Sent to the Company
  - 4) Copies of Increase Request Letter, Case Activity Timeline and Draft Initial Customer Notice are Provided to OPC
  - 5) List of Assigned Staff Members is Circulated to All Staff Participants and Appropriate Management Personnel Upon Receipt of Assignments

## **What Are The Requirements Regarding The Company's Initial Notice To Its Customers?**

- A) The Case Coordinator Must Approve the Notice Before It can be Mailed
- B) Notice Includes Information Regarding the Amount of the Revenue Increase(s) Being Requested and the Estimated Impact of the Request(s) on Customer Rates & "Typical" Residential Customer Bill
- C) Notice Advises Customers that Comments Regarding the Request(s) Should be Sent to the Commission's W/S Dept and the OPC, and Includes Contact Information for Customers to Use for Submitting Comments *(addresses, telephone numbers and fax numbers are included)*
- D) Notice Advises the Customers that Comments are to be Submitted Within 30 Days After the Date Shown on the Notice
- E) Copy of the Notice is Sent to the Secretary of the Commission (for Scanning and Placement in the EFIS Work File(s)), the W/S Dept and the OPC When it is Mailed to the Customers *(if the company does not send a copy to the Secretary, the W/S Dept Manager submits a copy of the notice into the EFIS Work File(s) for the Request(s))*
- F) Customer Letters Responding to the Notice are Forwarded to the W/S Dept Upon Receipt at the Commission and Copies of the Customer Letters are Exchanged with the OPC \*
- G) W/S Dept Personnel Respond in Writing to Customer Letters Received in Response to the Notice \*
- H) W/S Dept Personnel Conduct Investigations of Service-Related Complaints as Necessary \*

\* W/S Dept personnel maintain a log of customer calls, faxes and EFIS "public comment" forms received in response to the customer notice and responds to these contacts as well. These contacts may also form the basis for investigation of service-related complaints. The contact log is also provided to the OPC.

## **What Is Done During The Staff's Investigation Into The Request?**

- A) Accounting Dept Personnel Conduct an Audit of the Company's Financial Books & Records
- B) W/S Dept Personnel Conduct Inspection of the Company's Facilities and a Review of the Company's System Operations to Identify Improvements Needed, and Assist in the Financial Audit as Needed  
*(as previously noted, W/S Dept personnel also investigate service-related complaints received in response to the customer notice)*
- C) Financial Analysis Dept Personnel Provide the Rates of Return for Use in Calculating the Company's Cost of Service
- D) EMSD Depreciation Personnel Provide the Depreciation Rates for Use in Calculating the Company's Cost of Service *(this may include recommendations for changes to existing depreciation rates and/or establishment of new depreciation rates)*
- E) EMSD Management Services Personnel Conduct a Review of the Company's Customer Service Procedures & Practices to Identify Improvements Needed in Those Areas and Produces a Report Regarding Its Review and Its Recommendations for Changes to the Company's Operations in the Subject Areas Reviewed *(this report also includes a brief overview of the company pertaining to the number and type of customers served, the location of the company's service areas, etc.)*
- F) Accounting Dept Personnel Calculate the Company's Overall Cost of Service and Annualize Current Revenues, and Provide Those Results and Recommendations for Changes to the Company's Accounting/Bookkeeping Procedures to the Case Coordinator
- G) Case Coordinator Reviews Cost of Service and Annualized Revenue Calculations, Performs Rate Design Calculations, Develops Proposed Tariff Revisions, Develops Customer Impact Comparisons and Drafts Proposed "Agreement Regarding Disposition of Small Company Rate Increase Request" (Disposition Agreement) *(the Disposition Agreement contains all Staff recommendations for items to be implemented by the Company and is thus developed in consultation with other Departments – if both water and sewer services are involved, a separate agreement is created for each service)*
- H) Case Coordinator Provides the Staff's Recommendations Regarding Cost of Service, Rate Design, Tariff Revisions and Operational & Management Changes to the Company and the OPC Upon Completion of the Staff's Audit & Investigation
- I) Discussions Regarding Staff's Recommendations are to be Held Between the Company, the Staff and the OPC Within 21 Days of the Completion of the Staff's Audit & Investigation

## **What Happens When All Parties (Company, Staff, & OPC) Reach An Agreement Regarding The Outcome Of The Rate Increase Request?**

- A) Case Coordinator Finalizes Written Disposition Agreement(s) and Necessary Tariff Revisions
- B) Manager of W/S Dept Signs the Disposition Agreement(s) for Staff and a Representative of the OPC Also Signs the Agreement(s)
- C) Case Coordinator Drafts Tariff Filing Transmittal Letter(s) and Forwards the Letter(s), the Tariff Revisions and the Signed Disposition Agreement(s) (the "Tariff Filing Packet(s)") to the Company for Signing of the Tariff Filing Transmittal Letter(s) and the Disposition Agreement(s)
- D) Company Sends the Tariff Filing Packet(s) back to the Case Coordinator for Filing
- E) Upon Receipt of Tariff Filing Packet(s), Case Coordinator Enters Issue Date and Effective Date on the Tariff Sheets so That They Bear at Least a 30-day Effective Date – Case Coordinator Delivers Tariff Filing Transmittal Letter(s) and Revised Tariff Sheets to Data Center – Data Center Personnel Scan Transmittal Letter(s) and Revised Tariff Sheets and Enter Them Into EFIS, and a "Formal" Rate Case Docket is Created for the Filing *(separate cases are created if both water and sewer services are involved: SR = sewer rate case and WR = water rate case) (separate tariff Work ID Number files are also created: JS = sewer tariff file and JW = water tariff file)*
- F) Staff Files Signed Disposition Agreement(s) in Case File(s)
- G) Case Coordinator Forwards Customer Letters Responding to the Initial Customer Notice, Customer Contact Log and Staff's Responses to Customers, to the Data Center for Placement in a "Letter File" in the Case Papers**
- H) Staff Files Its Recommendation for Approval of the Subject Tariff Revisions and the Disposition Agreement in the Form of an "Official Case File Memorandum" that is Attached to an Appropriate Pleading *(this filing is made at least seven working days prior to the proposed effective date of the company's tariff revisions) (a separate filing is made in the water case and the sewer case, if needed)*
  - 1) Staff's Memorandum Describes the History of the Request and the Staff's Investigation of the Request, and Sets Out the Staff's Findings, Conclusions and Recommendations
    - a) Attachments to Staff's Memorandum Include Copies of the Following Documents: the Company's Rate Increase Request Letter; the Initial Customer Notice; the Company's Tariff Filing Packet; the Staff's Final Cost of Service Ratemaking Income Statement; the Staff's Accounting Workpapers; the Staff's Rate Design Workpapers; a Residential Customer Billing Comparison; the Staff's Overview of the Company's Customer Service Processes, Procedures & Practices; and the Staff's Report on Service Complaint Investigations
- I) Commission Issues Order

Note: Customer notices, other than the Company's initial notice, or local public hearings are not required when the Company, Staff and OPC all agree on the proposed outcome of the Company's rate proceeding, unless the Commission orders otherwise.

## **What Happens When Only The Company & Staff Initially Reach An Agreement Regarding The Outcome Of The Rate Increase Request?**

- A) Case Coordinator Finalizes Written Disposition Agreement(s) and Necessary Tariff Revisions
- B) Manager of W/S Dept Signs the Disposition Agreement(s) for Staff
- C) Case Coordinator Drafts Tariff Filing Transmittal Letter(s) and Customer Notice Regarding Staff/Company Agreement(s), and Forwards the Letter(s), the Tariff Revisions, the Signed Disposition Agreement(s) (the "Tariff Filing Packet(s)") and the Draft Customer Notice to the Company for Signing of the Tariff Filing Transmittal Letter(s) and the Disposition Agreement(s)
- D) Company Sends the Tariff Filing Packet(s) back to the Case Coordinator for Filing
- E) Upon Receipt of Tariff Filing Packet(s), Case Coordinator Enters Issue Date and Effective Date on the Tariff Sheets so That They Bear at Least a 45-day Effective Date – Case Coordinator Delivers Tariff Filing Transmittal Letter(s) and Revised Tariff Sheets to Data Center – Data Center Personnel Scan Transmittal Letter(s) and Revised Tariff Sheets and Enter Them Into EFIS, and a "Formal" Rate Case Docket is Created for the Filing *(separate cases are created if both water and sewer services are involved: SR = sewer rate case and WR = water rate case) (separate tariff Work ID Number files are also created: JS = sewer tariff file and JW = water tariff file)*
- F) Staff Files Signed Disposition Agreement(s) in Case File(s)
- E) Notice to Customers Regarding Staff/Company Agreement(s) is Finalized and Mailed by the Company
  - + Notice Includes Information Regarding the Amount of the Agreed-Upon Revenue Increase(s) and the Impact of the Increase(s) on Customer Rates and Residential Customer Bills
  - + Notice Advises the Customers to Send Comments Regarding the Agreement(s) to the W/S Dept and the OPC, and Includes Contact Information for Customers to Use for Submitting Comments *(addresses, telephone numbers and fax numbers are included)*
  - + Notice Advises the Customers that Comments are to be Submitted Within 20 Days After the Date Shown on the Notice
  - + Copy of the Notice is Sent to the Attention of the Secretary of the Commission (for Scanning and Placement in the Case File(s), and to the Case Coordinator and OPC When It is Mailed to Customers *(if the company does not send a copy to the Secretary, the Staff files a copy of the notice in the case file(s))*
  - + Customer Letters Responding to the Notice are Forwarded to the W/S Dept Upon Receipt at the Commission and Copies of the Customer Letters are Exchanged with the OPC \*
  - + W/S Dept Personnel Respond in Writing to Customer Letters Received in Response to the Notice \*
  - + W/S Dept Personnel Conduct Investigations of Service-Related Complaints as Necessary \*
- F) OPC Is To File a Pleading in the Case Papers Indicating Its Agreement or Disagreement with the Company's Tariff Revisions Within 25 Days After the Date the Company Filed the Tariff Revisions, Unless It Requests a Local Public Hearing

\* W/S Dept personnel maintain a log of customer calls, faxes and EFIS "public comment" forms received in response to the customer notice and responds to these contacts as well. These contacts may also form the basis for investigation of service-related complaints. The contact log is also provided to the OPC.

**Only the Company & Staff Initially Agree (cont'd)**

## OPC Position Alternative No. 1

### OPC Does **Not** Request a Local Public Hearing

A) OPC Files Its Position Statement(s) in the Case File(s)

B) Case Coordinator Forwards Customer Letters Responding to Both Customer Notices, Customer Contact Log, and Staff's Responses to Customers, to the Data Center for Placement in a "Letter File" in the Case Papers

C) Staff Files Its Recommendation for Approval of the Subject Tariff Revisions in the Form of an "Official Case File Memorandum" that is Attached to an Appropriate Pleading (*this filing is made at least seven working days prior to the proposed effective date of the company's tariff revisions*) (*a separate filing is made in the water case and the sewer case, if needed*)

1) Staff's Memorandum Describes the History of the Request and the Staff's Investigation of the Request, and Sets Out the Staff's Findings, Conclusions and Recommendations

a) Attachments to Staff's Memorandum Include Copies of the Following Documents: the Company's Rate Increase Request Letter; the Initial Customer Notice; the Second Customer Notice; the Company's Tariff Filing Packet; the Staff's Final Cost of Service Ratemaking Income Statement; the Staff's Accounting Workpapers; the Staff's Rate Design Workpapers; a Residential Customer Billing Comparison; the Staff's Overview of the Company's Customer Service Processes, Procedures & Practices; and the Staff's Report on Service Complaint Investigations

D) Commission Issues Order

## **Only the Company & Staff Initially Agree (cont'd)**

### **OPC Position Alternative No. 2**

#### **OPC Does Request a Local Public Hearing**

- A) OPC Must File Its Request Within 20 Days After the Date the Company Files Its Tariff Revisions (*staff may, but usually does not, file a response to the OPC's request*)
- B) Presiding RLJ Schedules the Local Public Hearing, Orders Notice to be Given and Suspends the Tariff Revisions for an Appropriate Period of Time
- C) Company Sends a Notice to Its Customers Regarding the Date, Time & Location of the Local Public Hearing (*Information Officer and Data Center are also normally required to provide notice to local news media and government officials*)
- D) Case Coordinator Forwards Customer Letters Responding to Both Customer Notices, Customer Contact Logs, and Staff's Responses to Customers, to the Data Center for Placement in a "Letter File" in the Case Papers**
- E) Staff Files Its "Standard Information Letter" in the Case File(s) – Final Cost of Service Calculation Work Papers, Rate Design Work Papers, Customer Billing Comparisons, Copies of Both Customer Notices and Other Relevant Documents are Submitted with this Letter (*this filing is normally made ten days prior to the date of the local public hearing*)
- F) Staff Representatives Attend the Local Public Hearing and Participate as Provided for by the Presiding RLJ (*staff members from W/S Dept, Accounting Dept and General Counsel's Office normally attend*)
- G) If Needed, W/S Dept Staff Investigates Service Complaints Raised by Customers at the Local Public Hearing
- H) OPC Position Statement is Filed in the Case File(s) Within 10 Days After the Local Public Hearing
- I) Staff Files Its Recommendation for Approval of the Subject Tariff Revisions in the Form of an "Official Case File Memorandum" that is Attached to an Appropriate Pleading (*this filing is made at least seven working days prior to the proposed effective date of the company's tariff revisions*) (*a separate filing is made in the water case and the sewer case, if needed*)
  - 1) Staff's Memorandum Describes the History of the Request and the Staff's Investigation, and Sets Out the Staff's Findings, Conclusions and Recommendations (*references to information previously submitted by the Staff are also included*)
- J) Commission Issues Order

**What Happens When Not Even The Company & Staff Can Reach An Agreement Regarding The Outcome Of The Rate Increase Request?**

- A) Case Coordinator Sends a Letter Notifying the Company that the "Request" is Considered Closed and Explaining the Company's Option to Pursue a Formal Rate Case *(not aware of any situation where a company has actually ever filed a formal rate case subsequent to the receipt of this letter)*
- B) Case Coordinator Submits Customer Letters Responding to the Initial Customer Notice, Customer Contact Log, and Staff's Responses to Customers, Into the EFIS Work File(s) for the Request(s)
- C) W/S Dept Manager Submits a Memo Into the EFIS Work File(s) for the Request(s) Stating that the Request(s) is/are Considered "Closed" and Advises the Staff Participants of This Submission *(a copy of the letter to the Company is attached to this Memo)*
- D) W/S Dept Manager Attaches the Above Memo (and Letter) to the Related EFIS Work Item(s) in his EFIS Task List and Routes the Work Item(s) to the General Counsel's Office to be "Closed"

Note: This situation could involve a disagreement between the Company and Staff on the amount of increase deemed proper, or could result from Staff finding that it does not believe there is a need for an increase in revenues.



## **Small Company Rate Increase Request Activities Timeline**

**Company:** ABC Water & Sewer Company

**Work I.D. Number(s):** QW-2004-1111  
QS-2004-1112

**Date Request(s) Received:** 01/01/04

**Date of Timeline Routing:** 01/12/04

**Tariff Filing Due Date:** 06/01/04

### **Departmental Assignments:**

<b>Auditing</b>	<u>Greg Meyer</u>	<b>Lead Auditor</b>
	<u>John Cassidy</u>	
<b>Engr. &amp; Mgmt. Svcs.</b>	<u>Greg Macias</u>	<b>Depreciation</b>
	<u>Kay Niemeier</u>	<b>Mgmt. Services</b>
<b>Financial Analysis</b>	<u>David Murray</u>	
<b>General Counsel</b>	<u>Keith Krueger</u>	(automatic assignment)
<b>Water &amp; Sewer</b>	<u>Dale W. Johansen</u>	<b>Case Coordinator</b> (automatic assignment)
	<u>Steve Loethen</u>	<b>Field Inspections/Service Complaints</b>

Set out on the following pages is the timeline related to processing the small company rate increase request(s) referenced above. This timeline was developed consistent with the requirements of the Commission's small company rate increase procedure and related internal operating procedures.

The schedule set out in the timeline is intended to provide coordination for processing the subject small company rate increase request(s), but the schedule is not inflexible. If modifications to the schedule are needed during the audit, the Case Coordinator should be contacted as soon as that is known. However, it must be kept in mind that changes in the schedule necessitating movement of the 150-day tariff filing deadline require the consent of the involved company. Modifications to the timeline will be communicated to all assigned department "lead" personnel and department managers through the distribution of an updated timeline.

The "Target Day" column in the timeline measures the number of days from the date the Company submitted its letter requesting the rate increase(s). The "Target Due Date" column in the timeline is the date when the "Target Day" hits the calendar. To determine the "Calendar Due Date", target dates falling on Saturday, Sunday or a Holiday are moved to the next regular working day - except that tariff sheet effective dates cannot be adjusted.

Target Day	Target Due Date	Calendar Due Date	Case Activity	Responsible "Party"	Date Completed
0	01/01/04	01/01/04	Letter Requesting Rate Increase(s) Received from Company, Scanned & Entered Into EFIS, Work I.D. Number Assigned & Work File Opened, Request Letter Forwarded to W/S Dept. for Processing	Data Center	01/01/04
5	01/06/04	01/06/04	Verify that Company's Currently Required Annual Report is on File Verify that Company is Current on Payments of Assessments [current and past] Verify that Required Information is Included in Request Letter If the Company Has Not Filed Its Currently Required Annual Report, Is Not Current on Its Assessment Payments or Has Not Included the Required Information - Return Letter to Company With Explanation of Applicable Deficiencies and Deadline for Correction, and Submit Relevant Information to EFIS Work File	Utility Services Utility Services Case Coordinator Case Coordinator	01/06/04 01/06/04 01/06/04 N/A
10	01/11/04	01/12/04	Initial Case Timeline Prepared Request for Personnel Assignments and Copy of Initial Timeline Sent to Auditing, Engineering & Management Services (EMSD) and Financial Analysis Departments (copy sent to Keith Krueger in General Counsel's Office) Initial Customer Notice Drafted and Provided to Company Office of the Public Counsel (OPC) Notified of Request (provided copies of request letter, initial timeline and draft initial customer notice)	Case Coordinator Case Coordinator Case Coordinator Case Coordinator	01/12/04 01/12/04 01/12/04 01/12/04
20	01/21/04	01/21/04	Personnel Assignments Made and Communicated to Case Coordinator Initial Customer Notice Mailed to Customers (must be approved by Case Coordinator prior to mailing; includes a 30-day response period)	Auditing, EMSD, Financial Analysis Company	01/21/04 01/21/04
25	01/26/04	01/26/04	Staff Assignment List and Company Contact Info Provided to Staff Participants & Management Personnel Letter Sent to Company Regarding Expected Staff Activities and Identifying Participating Staff Members; Copy of Timeline Sent Also	Case Coordinator Case Coordinator	01/26/04 01/26/04
30	01/31/04	02/02/04	Assigned Staff Make Arrangements with Company for Review of Books & Records, Review of Customer Service Practices & Procedures, Operational Inspections, Submission of Data Requests, etc.	Auditing, EMSD, Financial Analysis, Water & Sewer	02/02/04
50	02/20/04	02/20/04	End of Response Period for Initial Customer Notice	N/A	02/20/04

Target Day	Target Due Date	Calendar Due Date	Case Activity	Responsible "Party"	Date Completed
55	02/25/04		Schedule Operations Inspection and Investigation of Service Related Complaints from Customer Notice	Water & Sewer	
65	03/06/04		Recommended Rates of Return and Workpapers Provided to Lead Auditor and Case Coordinator  Recommended Depreciation Rates and Workpapers Provided to Lead Auditor and Case Coordinator (to indicate whether the rates are already prescribed or need to be prescribed)	Financial Analysis  Revenue RequirementD	
70	03/11/04		Operations Inspection and Investigation of Service Related Complaints Completed  Draft Recommendations Regarding Operational Changes Needed and Customer Service Practices & Procedures Provided to Lead Auditor and Case Coordinator	Water & Sewer  Water & Sewer, EMSD	
80	03/21/04		Drafting of Initial "Audit Recommendation Memorandum" Begins with Consultation with Appropriate Audit Supervisor	Auditing	
90	03/31/04		Audit Completed  Initial "Audit Recommendation Memorandum" and Related Revenue Requirement Run & Supporting Workpapers Provided to Case Coordinator  Initial Reports (including proposed recommendations) on Complaint Investigations and Operational Inspections Provided to Case Coordinator  Initial Report (including proposed recommendations) Regarding Customer Service Practices & Procedures and Company Overview Provided to Case Coordinator  Arrange for Meeting to Discuss All Departments' Initial Findings and Recommendations, and Distribute Relevant Information to Involved Personnel	Auditing Auditing  Water & Sewer  EMSD  Case Coordinator	
100	04/10/04		Initial Rate Design Proposals, Draft Tariff Revisions and Draft of Disposition Agreement Completed and Distributed to Involved Personnel	Case Coordinator	
105	04/15/04		Meeting to Discuss All Departments' Initial Findings and Recommendations	All Involved Staff Personnel	
110	04/20/04		Final "Audit Recommendation Memorandum" and Final Revenue Requirement Run & Supporting Workpapers Provided to Case Coordinator  Final Reports Regarding Complaint Investigations and Operational Inspections Provided to Case Coordinator (report to include agreed-upon recommendations)  Final Report Regarding Customer Service Practices and Procedures and Company Overview Provided to Case Coordinator (report to include agreed-upon recommendations)	Auditing  Water & Sewer  EMSD	

Target Day	Target Due Date	Calendar Due Date	Case Activity	Responsible "Party"	Date Completed
120	04/30/04		Settlement Proposal Packet Sent to Company and OPC (final revenue requirement run, rate design proposals and workpapers, residential customer bill comparison, draft tariff sheets and draft disposition agreement)  Arrange for Meeting/Conference Call with Company and OPC to Discuss Staff's Settlement Proposal	Case Coordinator  Case Coordinator	
130	05/10/04		Meeting or Conference Call Held with Company and OPC to Discuss Staff's Settlement Proposal	Company, OPC, Staff	
140	05/20/04		Company and OPC Notify Staff of Agreement or Disagreement with Staff's Settlement Proposal  Changes Made to Disposition Agreement and/or Tariff Sheets, If Necessary	Company & OPC  Case Coordinator	
145	05/25/04		If Increase is Not Needed or Agreement Between at Least Company and Staff is Not Reached: Staff Informs Company and OPC That the Request Will be "Closed"; Staff Informs Company of Option to Pursue Formal Case; Relevant Information Submitted into EFIS Work File <u>or</u>  If Increase is Needed and Agreement is Reached Between at Least Company and Staff: Staff Provides Company with Revised Tariff Sheet(s), Disposition Agreement Signed by W/S Dept. Manager and Draft Tariff Filing Transmittal Letter  Note: If OPC also agrees to the settlement then a representative also signs the disposition agreement before the agreement is sent to the company.	Case Coordinator  Case Coordinator	
150	05/30/04		If Agreement is Reached Between Company, Staff and OPC, the Company Files Agreed-Upon Tariff Revisions With 30-Day Effective Date <u>or</u>  If Agreement is Reached Only Between Company and Staff, Company Files Agreed-Upon Tariff Revisions With 45-Day Effective Date  Note: For either of these scenarios, the Staff will file the disposition agreement shortly after the Company files the revised tariff sheet(s) - see "Day 155".	Company  Company	

This is the end of the "informal" portion of the small company rate increase request procedure. Case activities needed from this point forward, and the timing of them, vary based upon the position taken by the OPC regarding the request. The next three sections of the timeline reflect the activities needed, and the timing of them, based upon the different OPC positions that are possible.

This section of the timeline pertains to the situation where the Company, Staff & OPC reach an agreement on the overall disposition of the request, and is thus based on the assumption that a second customer notice is not sent out by the Company. In this situation, the Commission Rules require a minimum of 30 days between the filing date and the effective date of the tariff sheets filed by the Company. (The dates shown assume the minimum 30-day tariff filing is what the Company made and that it was made on "Day 150".)

Target Day	Target Due Date	Calendar Due Date	Case Activity	Responsible "Party"	Date Completed
155	06/04/04		Staff Files Signed Disposition Agreement	Case Coordinator & Lead Attorney	
			".pdf" File Containing Customer Letters and Public Comment Forms Responding to Initial Customer Notice, Customer Contact Log and Staff Responses to Customers Submitted to EFIS Case File(s)	Case Coordinator & Lead Attorney	
			Formal Schedule of Proposed Depreciation Rates, Including Company Name and Case Number, Provided to Case Coordinator (this applies only if rates are being changed/established in the case)	EMSD	
160	06/09/04		Draft of Staff Recommendation Circulated to All Involved Staff Personnel and Related Up-Line Management	Case Coordinator	
165	06/14/04		Staff Recommendation Filed +	Case Coordinator & Lead Attorney	
175	06/24/04		Order Approving Tariff Sheet(s) Issued ++	Commission	
180	06/29/04		Tariff Sheet(s) Effective for Service Rendered "On and After" this Date	N/A	

+ At a minimum, there must be 7 working days between the "calendar due date" for this Activity and the effective date of the tariff sheets.

++ At the latest, the "calendar due date" for this Activity is the date of the last regularly scheduled Commission agenda meeting prior to the effective date of the tariff sheet(s).

This section of the timeline pertains to the situation where only the Company & Staff reach an agreement, and is thus based on the fact that a second customer notice is sent out by the Company. This section is also based on the assumption that the OPC does not request a local public hearing. In this situation, the Commission Rules require a minimum of 45 days between the filing date and the effective date of the tariff sheets filed by the Company. The dates shown assume the minimum 45-day tariff filing is what the Company made and that it was made on "Day 150".

Target Day	Target Due Date	Calendar Due Date	Case Activity	Responsible "Party"	Date Completed
145	05/25/04		Draft of Second Customer Notice Provided to Company & OPC	Case Coordinator	
150	05/30/04		Second Customer Notice Mailed to Customers (must be approved by Case Coordinator prior to mailing; includes a 20-day response period)	Company	
155	06/04/04		Staff Files Signed Disposition Agreement	Case Coordinator & Lead Attorney	
			".pdf" File Containing Customer Letters and Public Comment Forms Responding to Initial Customer Notice, Customer Contact Log and Staff Responses to Customers Submitted to EFIS Case File(s)	Case Coordinator & Lead Attorney	
			Formal Schedule of Proposed Depreciation Rates, Including Company Name and Case Number, Provided to Case Coordinator (this applies only if rates are being changed/established in the case)	EMSD	
170	06/19/04		End of Response Period for Second Customer Notice	N/A	
175	06/24/04		OPC Files Its Position Statement	OPC	
			".pdf" File Containing Customer Letters and Public Comment Forms Responding to Second Customer Notice, Customer Contact Log and Staff Responses to Customers Submitted to EFIS Case File(s)	Case Coordinator & Lead Attorney	
			Investigation of Service Complaints Received During Second Notice Period Completed and Reports Thereon Provided to Case Coordinator	Water & Sewer	
			Draft of Staff Recommendation Circulated to All Involved Staff Personnel and Related Up-Line Management	Case Coordinator	
180	06/29/04		Staff Recommendation Filed +	Case Coordinator & Lead Attorney	
190	07/09/04		Order Approving Tariff Sheet(s) Issued ++	Commission	
195	07/14/04		Tariff Sheet(s) Effective for Service Rendered "On and After" this Date	N/A	

+ At a minimum, there must be 7 working days between the "calendar due date" for this Activity and the effective date of the tariff sheets.

++ At the latest, the "calendar due date" for this Activity is the date of the last regularly scheduled Commission agenda meeting prior to the effective date of the tariff sheet(s).

This section of the timeline pertains to the situation where only the Company & Staff reach an agreement, and is thus based on the fact that a second customer notice is sent out by the Company. This section is also based on the assumption that the OPC does request a local public hearing and that one is held. In this situation, the Commission Rules require a minimum of 45 days between the filing date and the effective date of the tariff sheets filed by the Company. The dates shown assume the minimum 45-day tariff filing is what the Company made and that it was made on "Day 150". The dates shown also assume an initial suspension period of an additional 45 days and a local public hearing date 30 days prior to the end of the initial suspension period for the tariff sheets.

Target Day	Target Due Date	Calendar Due Date	Case Activity	Responsible "Party"	Date Completed
145	05/25/04		Draft of Second Customer Notice Provided to Company & OPC	Case Coordinator	
150	05/30/04		Second Customer Notice Mailed to Customers (must be approved by Case Coordinator prior to the mailing; includes a 20-day response period)	Company	
155	06/04/04		Staff Files Signed Disposition Agreement  ".pdf" File Containing Customer Letters and Public Comment Forms Responding to Initial Customer Notice, Customer Contact Log and Staff Responses to Customers Submitted to EFIS Case File(s)  Formal Schedule of Proposed Depreciation Rates, Including Company Name and Case Number, Provided to Case Coordinator (this applies only if rates are being changed/established in the case)	Case Coordinator & Lead Attorney  Case Coordinator & Lead Attorney  EMSD	
170	06/19/04		End of Response Period for Second Notice	N/A	
175	06/24/04		OPC Files Request for Local Public Hearing	OPC	
180	06/29/04		Staff and Company Respond to OPC's Request for Local Public Hearing (response is optional)  ".pdf" File Containing Customer Letters and Public Comment Forms Responding to Second Customer Notice, Customer Contact Log and Staff Responses to Customers Submitted to EFIS Case File(s)  Investigation of Service Complaints Received During Second Notice Period Completed and Reports Thereon Provided to Case Coordinator	Lead Attorney & Company  Case Coordinator  Water & Sewer	

Target Day	Target Due Date	Calendar Due Date	Case Activity	Responsible "Party"	Date Completed
185	07/04/04		Commission Issues Order Establishing Local Public Hearing and Suspending Tariff Sheet(s)	Commission	
190	07/09/04		Staff Provides Company & OPC with Draft of Notice Related to Local Public Hearing	Case Coordinator	
195	07/14/04		Notice of Local Public Hearing Mailed to Customers	Company	
200	07/19/04		"Standard Information Letter" and Related Documents Submitted to EFIS Case File(s)	Case Coordinator & Lead Attorney	
210	07/29/04		Local Public Hearing Held	Commission	
220	08/08/04		OPC Files Its Position Statement Draft of Staff Recommendation Circulated to All Involved Staff Personnel and Related Up-Line Management	OPC Case Coordinator	
225	08/13/04		Staff Recommendation Filed +	Case Coordinator & Lead Attorney	
235	08/23/04		Order Approving Tariff Sheet(s) ++	Commission	
240	08/28/04		Tariff Sheet(s) Effective for Service Rendered "On and After" this Date	N/A	

+ At a minimum, there must be 7 working days between the "calendar due date" for this Activity and the effective date of the tariff sheets.

++ At the latest, the "calendar due date" for this Activity is the date of the last regularly scheduled Commission agenda meeting prior to the effective date of the tariff sheet(s).



### **Arbitration option for small rate cases**

To the extent that agreement cannot be reached on all issues regarding the disposition of a requested increase in a small sewer utility's annual operating revenues, the written disposition agreement may include provisions regarding such issues whereby the signatories to the disposition agreement agree to request that the commission allow the parties to enter arbitration limited in scope to taking testimony on specified unresolved issues.

The arbitration shall be carried out according to the following rules:

1. The Commission shall convene to sit as arbitrators.
2. The parties shall decide whether the arbitrators shall decide the case based upon one of the following methodologies:
  - a) high-low arbitration<sup>1</sup>: the arbitrator shall decide the case between the positions of the parties, or at any point within the positions, but not outside the parameters of the positions of the parties, or
  - b) final offer arbitration<sup>2</sup>: the parties shall present evidence in favor of their respective positions, and the arbitrator shall adopt the position of one of the parties, based upon the evidence and commission precedent.

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<sup>1</sup> The positions of the parties represent the outside parameters of the arbitrator's authority. For example, if Staff proposes that an expense, for rate making purposes should be \$10,000 annually, which Public Counsel believes that the expense should be \$9,400, and the Company believes the expense should be \$12,000, the arbitrator may set the expense at any point between and including \$9,400 and \$12,000.

<sup>2</sup> For example, Staff believes that the rate of return should be 9.3%; Public Counsel believes it should be 9.1% and the Company believes it should be 12.5%. The arbitrator must adopt one of the three positions. This is also known as "baseball arbitration."

3. When the parties choose to arbitrate outstanding issues pursuant to a settlement agreement in a small company rate procedure, the small company may elect to participate in the arbitration either with or without the assistance of counsel.<sup>3</sup>

4. The arbitration shall proceed in accordance with Sec. 435.370 RSMo as a matter of public record under the following conditions:

a. arbitration shall be allowed where the small company and the commission staff have reached agreement on most ratemaking issues pursuant to the small company rate increase procedure, but where no more than three issues of significance remain outstanding, provided that the company, the staff and the office of the public counsel agree to arbitrate these limited issues.

b. the arbitration hearing shall be limited in scope to the three or fewer issues on which arbitration is sought. At least one week prior to the commencement of the hearing, the parties shall file written statements in support of their position on the issue or issues being arbitrated, along with a list of the evidence the party intends to rely on at the arbitration hearing.

c. the procedure at the arbitration shall allow the parties the opportunity for opening statements, the presentation of evidence and closing arguments. There will be no briefs, except upon request of the arbitrators.

d. the parties shall not pre-file testimony or evidence. However, the parties may present witnesses and documentation in support of their respective positions. Parties shall have the right to cross examine witnesses, and the arbitrators may also inquire of the witnesses presented. No document may be admitted into evidence in arbitration unless a

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<sup>3</sup> Traditionally, parties to an arbitration have been allowed to appear without counsel, although counsel is not prohibited from participating. Because the informal rate procedure for small companies is designed to allow a small company to proceed without an attorney, some companies may prefer not to retain counsel during this proceeding. However, depending on the complexity of the issues to be arbitrated, it may be in the best interest of the small company to be represented by counsel in a limited capacity for the purpose of

witness is available who can attest to the accuracy of the entire document. The rules of evidence shall not otherwise apply, except to the extent required to promote the interests of justice.

5. In the event that three or fewer issues remain outstanding in the process of negotiating a stipulated agreement in a small company rate proceeding, but all parties do not consent to arbitration, any party may petition the public service commission, seeking to compel the parties to arbitrate any of the outstanding issues. In its petition to compel arbitration, the party seeking arbitration shall identify the issue(s), and the public policy reasons why the commission should decide the issues, along with the dollar amount of the outstanding issues, and the impact the issue would have on an average customer bill. Parties objecting to arbitration may file a response within 10 days of the petition to compel arbitration. The Commission shall then rule on whether to allow arbitration in the given case.

6. The Pubic Service Commission's decision on the arbitrated issues shall be announced, along with the stipulated disposition of the remaining issues in the case, in the Commission's written report and order. Once issued, the arbitration decision shall be binding on the parties to the arbitration.

7. Notwithstanding any statute, rule or regulation to the contrary, motions for rehearing challenging an arbitration decision shall be limited to the grounds set forth in Secs. 435.405 and 435.410 RSMo. (2000).

8. In the event that the arbitrators decide an issue in favor of the small company, the company may also ask the arbitrators to decide whether some or all of its arbitration expenses related to that issue should be recovered in rates. If the arbitrators decide that recovery of arbitration expenses would be appropriate, the arbitrators shall determine a reasonable level of arbitration expense, not to exceed the total amount requested by the company, and the Commission shall include a provision in its report and order which designates the level of expense, if any, to

be recovered in rates. However, whether to allow recovery of any arbitration expense will be in the discretion of the commission, sitting as arbitrators.

### **Comment**

In general, the informal proceeding for rate increase requests by small utility companies (water, sewer, etc.) is designed for several purposes, including providing a way for small companies to increase their rates when necessary without the litigation expenses inherent in filing a general rate case. The success of the informal procedure depends on the willingness of the parties to reach a stipulated settlement of the case. This arbitration option is not designed to negate the settlement oriented nature of a small company rate proceeding. However, occasionally, the parties will reach agreement on all but one or two issues, and then must decide to either “not decide” the issues or to have a rate case hearing. In those cases where the parties are able to reach agreement on the bulk of the issues regarding setting rates, but agree that a limited number of outstanding issues should be decided, this arbitration procedure provides a venue for resolving those issues short of a formal rate case filing.

The arbitration process proposed is one in which the Commissioners sit as arbitrators, and their decision is included in the commission’s report and order in which it considers the stipulation and agreement on the other rate case issues. The process is designed so that the arbitrator’s decision is binding on the parties unless it is rejected by the commission. Once adopted, the arbitration decision is binding, and subject to review on a more limited basis than an order in a non-settled, contested case. The grounds for challenge of an arbitrator’s order are found in Secs. 435.405 and 435.410 RSMo.

Because the Commission must ultimately decide whether or not a utility’s rates may be changed, the arbitration decision must be issued by the Commission, and the arbitration award must be based upon substantial evidence.

**LEGEND:** Regular Font = Current Provisions But Rewritten to Some Extent in Many Instances  
Language Shaded in Gray = Additions/Modifications Related to EFIS  
**Bold Font = Additions/Modifications But Consistent With Established Practice**  
*Bold/Italics Font = New Provisions*

#### **4 CSR 240-3.330 Small Sewer Utility Rate Case Procedure**

**PURPOSE:** This rule provides procedures whereby small sewer utilities may request increases in their annual operating revenues, without the necessity of meeting the filing requirements for a general rate increase request as set forth in 4 CSR 240-2.065(1) and 4 CSR 240-3.030.

(1) Notwithstanding the provisions of any other commission rule to the contrary, a sewer utility serving eight thousand (8,000) or fewer customers (small sewer utility) may request an increase in its annual operating revenues through the procedures set forth in this rule.

*(2) Notwithstanding the provisions of any other commission rule to the contrary, and except as is provided for in section (31) of this rule, a person that is not an attorney may make the submissions and filings required of a small sewer utility under this rule, provided that such person is the owner, an officer or a court-appointed representative of the subject utility.*

(3) A small sewer utility rate case may be initiated by a small sewer utility through the submittal of a letter directed to the secretary of the commission, wherein the subject utility requests an increase in its annual operating revenues. A small sewer utility submitting such a request shall not submit any proposed tariff revisions with the request.

(4) A small sewer utility that also operates a water system may only submit a request for an increase in its annual operating revenues that is applicable to both services. For such utilities, the information required by section (7) of this rule, as applicable, must be provided separately for each service.

(5) A small sewer utility that provides service in multiple, non-interconnected service areas may only submit a request for an increase in its annual operating revenues that is applicable to all of the service areas. For such companies, the information required by section (7) of this rule, as applicable, must be provided separately for each service area.

(6) A small sewer utility's letter to the secretary of the commission, in which it requests an increase in its annual operating revenues, shall be submitted **in hard copy** to the **commission's data center**, and a copy of the letter shall be provided to the office of the public counsel (public counsel).

(7) A small sewer utility's letter requesting an increase in its annual operating revenues shall include, at a minimum, the following information:

- (A) The amount of additional annual operating revenues being requested;
- (B) The reason(s) for the requested increase in the utility's annual operating revenues;

(C) A statement acknowledging that the design of the utility's customer rates will be reviewed as a part of the commission staff's audit of the request;

(D) A statement acknowledging that the utility's service charges or fees will be reviewed as a part of the commission staff's audit of the request;

(E) A statement acknowledging that the utility's tariff provisions regarding its rules and regulations for the provision and/or taking of service will be reviewed as a part of the commission staff's audit of the request;

(F) A statement that the utility is current on the payment of **all** its commission assessments, noting whether the **most recent** assessment has been paid in full or is being paid under an installment plan;

(G) A statement that the utility is current on the **submission** of its **most recently required** commission annual report;

*(H) A statement that the utility is current on the submission of its most recently required commission annual statement of operating revenue;*

*(I) A statement that the utility is current on the payment of any required fees administered by the Missouri Department of Natural Resources (MDNR); and*

*(J) A statement that the utility is in good corporate standing with the Missouri Secretary of State, if it is incorporated.*

(8) Upon receipt of a small sewer utility's letter requesting an increase in its annual operating revenues, **personnel in the commission's data center shall scan the letter and enter it into the commission's electronic filing and information system for the establishment of a small company rate increase request tracking file,** and shall forward the original letter to the commission's water and sewer department. Upon establishment of the small company rate increase request tracking file, the commission's water and sewer department shall determine whether the subject utility's request contains the information required by section (7) of this rule, and whether the statements required by subsections (7)(F)-(J) of this rule are accurate.

*(9) If the water and sewer department determines that a small sewer utility's request for an increase in its annual operating revenues includes the information required by section (7) of this rule, and that the statements required by subsections (7)(F)-(J) of this rule are accurate, the commission staff shall, within five (5) days after that determination is made, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion an electronic copy of the utility's original request letter.*

*(10) If the water and sewer department determines that a small sewer utility's request for an increase in its annual operating revenues does not include the information required by section (7) of this rule, or that any of the statements required by subsections (7)(F)-(J) of this rule are not accurate, the department will return the request to the subject utility with an explanation of the deficiencies. In such a situation, consideration of the subject utility's request will be suspended until such time as the utility corrects the referenced deficiencies, and the utility will be so notified by the water and sewer department.*

*(11) For a situation such as that described in section (10) of this rule, the commission staff shall, within five (5) days after the date that the small sewer utility corrects the referenced deficiencies, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall*

*attach to that motion electronic copies of the subject utility's original request letter and the correspondence between the commission staff and the utility pertaining to the referenced deficiencies.*

*(12) For a situation such as that described in section (10) of this rule, if the referenced deficiencies are not corrected within thirty (30) days after the date the small sewer utility is notified of the deficiencies, **the commission staff will submit a notice regarding this matter to the subject tracking file in the commission's electronic filing and information system** and the subject utility's request will be treated as having been withdrawn by the utility. In such a situation, the water and sewer department will notify the subject utility of the status of its request and advise the utility of its right to submit a new request once it has corrected the referenced deficiencies.*

*(13) Subsequent to a case being established for consideration of a small sewer utility's request for an increase in its annual operating revenues, the subject utility must stay current on the payment of its commission assessments, the submission of its commission annual reports, the submission of its commission annual statement of operating revenue and the payment of its MDNR fees, and must maintain a good corporate standing with the Missouri Secretary of State, if applicable. Absent these requirements being met, consideration of the request will be suspended until such time that the subject utility corrects the deficiencies. If such a suspension is necessary, the commission staff shall so notify the subject utility of the suspension **and shall also file a notice of the suspension in the subject case file**. In such a situation, the time period set forth in section (27) of this rule will be extended by an amount of time equal to the amount of time that it takes the subject utility to correct the referenced deficiencies. Additionally, if the referenced deficiencies are not corrected within thirty (30) days after the date the subject utility is notified of the deficiencies, the commission staff shall have the right to file a motion requesting that the utility's rate case be closed, without prejudice to the utility's right to submit a new request for an increase in its operating revenues once it has corrected the referenced deficiencies.*

*(14) Subsequent to a case being established for consideration of a small sewer utility's request for an increase in its annual operating revenues, the commission staff shall schedule an investigation of the subject utility's operations and an audit of the utility's financial books and records. If public counsel wishes to conduct an independent investigation and audit of the subject utility, it must do so within the same time period as the commission staff's investigation and audit.*

*(15) Subsequent to a case being established for consideration of a small sewer utility's request for an increase in its annual operating revenues, the subject utility shall send written notice of the request, including the impact of the requested increase on an average residential customer's bill, to each of its customers. The notice, which must be approved by the staff of the commission's water and sewer department prior to being sent to the subject utility's customers, shall indicate that customer comments regarding the utility's revenue increase request, or any other matters pertaining to the utility's operations, are to be sent to the commission's water and sewer department and/or the public counsel within thirty (30) days after the date shown on the notice. The notice shall include addresses for the water and sewer department and the public counsel for the customers' use in submitting comments regarding the company's request, **and shall also include the commission's toll-free customer service telephone number**. At the same time that the subject utility sends the approved notice to its customers, it shall also submit a copy of the notice to the **commission's data center** for scanning and filing in the subject case file*

and send a copy of the notice to the commission's water and sewer department and the public counsel. Upon receipt of customer comments regarding the company's request, the water and sewer department and the public counsel shall exchange copies of the comments, **and the water and sewer department will see that copies of the comments, and any responses thereto, are filed in the subject case file.**

***(16) Within ten (10) days after the end of the response period for the customer notice referenced in section (15) of this rule, the commission staff and the public counsel shall determine if an informal local public meeting with the small sewer utility's customers would benefit their investigations and audits of the subject utility. If the commission staff and the public counsel agree that such a meeting would be beneficial, they shall make arrangements for the meeting and the subject utility shall send notice of the meeting to its customers as requested by the commission staff and the public counsel. The commission staff shall file a notice of any such meeting, and a copy of the subject utility's notice to its customers pertaining thereto, in the subject case file.***

**(17) Within ten (10) days after the completion of its investigation and audit of a small sewer utility's requested increase in its annual operating revenues, the commission staff shall send written notice of the results of its investigation and audit to the subject utility and the public counsel. This notification shall include the following information, as applicable:**

- (A) The amount of the staff's recommended increase in the subject utility's annual operating revenues, if any, and its supporting audit workpapers;**
- (B) The staff's recommended customer rates and its supporting rate design workpapers;**
- (C) A bill comparison showing the impact of the staff's annual operating revenue increase and rate design recommendations on an average residential customer;**
- (D) The staff's recommendations regarding changes to the subject utility's service charges and fees;**
- (E) The staff's recommendations regarding changes to the subject utility's tariff provisions pertaining to the rules and regulations for the provision and/or taking of service;**
- (F) The staff's recommendations regarding changes to the operation of the subject utility's system(s);**
- (G) The staff's recommendations regarding changes to the overall management of the subject utility's operations;**
- (H) Draft revised tariff sheets reflecting the above staff recommendations; and**
- (I) A draft written "agreement regarding disposition of small sewer utility rate case" reflecting the above staff recommendations.**

**(18) Within ten (10) days after the date of the notification of the results of the commission staff's investigation and audit, the small sewer utility and the public counsel shall notify the staff of their positions regarding the staff's results. In the alternative, the subject utility or the public counsel may request that the commission staff arrange a conference to discuss the staff's results and/or their positions regarding those results. If such a request is made, the commission staff shall arrange a conference with the subject utility and the public counsel, with the conference to be held within ten (10) days after the commission staff receives the request.**

**(19) If negotiations between the commission staff, the small sewer utility and the public counsel result in a unanimous agreement regarding an increase in the subject utility's annual operating revenues and/or any other matters pertaining to the utility's operations or tariff provisions, including responses to customer concerns, the**



commission staff shall **finalize a written “agreement regarding disposition of small sewer utility rate case” for signature by representatives of the utility, the public counsel and staff.** Upon completion and signing of such a disposition agreement, the subject utility may then file revised tariff sheets, *in the subject case file*, reflecting the terms of that agreement. Such tariff sheets shall bear an effective date that is not fewer than thirty (30) days after the date the tariff filing is received at the commission. In such a situation, no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. The subject utility shall include the original signed disposition agreement with the filing of its revised tariff sheets. A copy of the subject utility's filing shall be provided to the public counsel at the same time that the utility makes the filing with the commission.

(20) If negotiations between the commission staff, the small sewer utility and the public counsel result in an agreement between only the commission staff and the subject utility, the commission staff shall **finalize a written “agreement regarding disposition of small sewer utility rate case” for signature by representatives of the utility and the staff.** Upon completion and signing of such a disposition agreement, the subject utility may then file revised tariff sheets, *in the subject case file*, reflecting the terms of that agreement. Such tariff sheets shall bear an effective date that is not fewer than forty-five (45) days after the date the tariff filing is received at the commission. The subject utility shall include the original signed disposition agreement with the filing of its revised tariff sheets. A copy of the subject utility's filing shall be provided to the public counsel at the same time that the utility makes the filing with the commission.

(21) For a situation such as that described in section (20) of this rule, the small sewer utility shall send written notice to its customers regarding the provisions of the utility/staff disposition agreement, including the rates and charges that would result from commission approval of the subject utility's revised tariff sheets and the impact of those rates on an average residential customer's bill. The notice, which must be approved by the staff of the commission's water and sewer department prior to being sent to the subject utility's customers, **and which is to be sent to the customers within five (5) days after the date the utility files its revised tariff sheets**, shall indicate that customer responses to the notice are to be sent to the commission's water and sewer department and/or the public counsel within twenty (20) days after the date shown on the notice. The notice shall include addresses for the water and sewer department and the public counsel for the customers' use in submitting comments regarding the company's request, **and shall also include the commission's toll-free customer service telephone number.** At the same time that the subject utility sends the approved notice to its customers, it shall also submit a copy of the notice to the **commission's data center** for scanning and filing in the subject case file and send a copy of the notice to **the commission's water and sewer department and the public counsel.** Upon receipt of customer comments regarding the utility/staff agreement, the water and sewer department and the public counsel shall exchange copies of the comments, *and the water and sewer department will see that copies of the comments, and any responses thereto, are filed in the subject case file.*

(22) For a situation such as that described in section (20) of this rule, the public counsel shall, within **thirty (30) days** after the date the small sewer utility files its revised tariff sheets and the related disposition agreement, file a pleading in the subject case *affirmatively* stating its agreement or disagreement with the provisions of the revised tariff sheets *and the disposition agreement, and the reasons therefore*, unless it requests that the commission hold a local public hearing as provided for in section (23) of this rule.

(23) For a situation such as that described in section (20) of this rule, if the public counsel desires the commission to hold a local public hearing, it shall, within **twenty-five (25) days** after the date the small sewer utility files its revised tariff sheets and the related disposition agreement, file a pleading in the subject case requesting that the commission do so *and affirmatively stating the reasons for the request. The commission staff and the subject utility shall have five (5) days to respond to public counsel's request for a local public hearing, if they desire to do so.*

*(24) If the commission orders that a local public hearing is to be held, the small sewer utility shall send written notice of that hearing to its customers, with the notice to be consistent with the commission's order and to be approved by the staff of the commission's water and sewer department before it is sent to the customers. At the same time that it sends the approved notice to its customers, the subject utility shall also submit a copy of the notice to the commission's data center for scanning and filing in the subject case file and send a copy of the notice to the commission's water and sewer department and the public counsel.*

(25) If the commission holds a local public hearing, the public counsel shall, within **ten (10) days** after the date of the local public hearing, file a pleading in the subject case *affirmatively* stating its agreement or disagreement with the provisions of the small sewer utility's revised tariff sheets *and the related disposition agreement, and providing the reasons therefore.*

*(26) Failure of the public counsel to timely file the pleadings required by sections (22), (23) or (25) of this rule will be considered the same as the public counsel's express agreement with the provisions of the small sewer utility's revised tariff sheets and the related disposition agreement.*

(27) *Except as otherwise provided for in this rule*, a written "agreement regarding disposition of small sewer utility rate case" between at least the small sewer utility and the commission staff must be finalized, and the filing of the subject utility's revised tariff sheets and the disposition agreement *in the subject case* must occur, within one hundred fifty (150) days *after the date the commission establishes a case for consideration of the subject utility's operating revenue increase request.* This time period may, however, be extended by consent of the subject utility and the commission staff. Confirmation of the consent for an extension of this 150-day time period shall be included as a part of the written disposition agreement.

*(28) To the extent that agreement cannot be reached on all issues regarding the disposition of a requested increase in a small sewer utility's annual operating revenues, the written disposition agreement may include provisions regarding such issues whereby the signatories to the disposition agreement agree to request that the commission hold an evidentiary hearing limited in scope to taking testimony on specified unresolved issues.*

*(29) For a situation where the written disposition agreement contains provisions whereby the signatories agree to request that the commission hold an evidentiary hearing on certain unresolved issues, the disposition agreement may also include provisions whereby the signatories to the agreement agree to request that any rate increases resulting from resolved issues be approved by the commission and put into effect prior to the time that a commission decision is issued on the unresolved issues.*

*(30) For a situation where the written disposition agreement contains provisions whereby the signatories agree to request that the commission hold an evidentiary hearing on certain unresolved issues, the commission staff, on behalf of the signatories to the disposition agreement, shall file a motion in the subject case requesting that an evidentiary hearing be held on the unresolved issues. If applicable, this motion shall also include the request that any rate increases resulting from the resolved issues be approved and put into effect prior to the time that a commission decision is issued on the unresolved issues.*

*(31) For a situation where the written disposition agreement contains provisions whereby the signatories agree to request that the commission hold an evidentiary hearing on certain unresolved issues, the small sewer utility will have the burden of proof regarding the resolution of any issues to be heard by the commission and must be represented by counsel in all matters pertaining to the overall evidentiary hearing process.*

*(32) Any motion filed pursuant to the provisions of section (30) of this rule shall include a list of the issues to be determined by the commission, and a proposed procedural schedule that includes dates for the following activities: the filing of prepared direct testimony by the small sewer utility; the filing of prepared rebuttal testimony by the commission staff and the public counsel; the filing of statements by the subject utility, the commission staff and the public counsel summarizing their positions on the issues to be determined by the commission; a joint filing including a list of witnesses to be called on each day of hearing, the order in which such witnesses shall appear and the order of cross-examination of such witnesses; and the evidentiary hearing.*

*(33) For a situation where a motion is filed pursuant to the provisions of section (30) of this rule, and where the public counsel is not a signatory to the subject disposition agreement, the public counsel shall, within ten (10) days after the date the motion is filed, file a pleading in the subject case affirmatively stating its agreement or disagreement with the actions requested in the motion, and providing the reasons therefore. Failure of the public counsel to timely file such a pleading will be considered the same as the public counsel's express agreement with the actions requested in the motion.*

*(34) In the event that the small sewer utility and the commission staff agree that an increase in the subject utility's annual operating revenues is not necessary, or in the event that the utility advises the commission staff that it no longer wishes to pursue an increase in its annual operating revenues, the commission staff shall file a verified statement to that effect in the subject case. Subsequent to the filing of such a statement, the commission will issue a notice closing the subject case.*

*(35) In the event that an agreement regarding the disposition of a requested increase in a small sewer utility's annual operating revenues cannot be reached between at least the commission staff and the subject utility, the commission staff shall file a verified statement to that effect in the subject case. Subsequent to the filing of such a staff statement, the commission will issue a notice closing the subject case.*

*(36) For a situation such as that described in section (35) of this rule, the commission staff will inform the small sewer utility that it may initiate a general rate increase request pursuant to the provisions of 4 CSR 240-2.065(1) and 4 CSR 240-3.030.*

**QUESTIONS PREVIOUSLY POSED BUT NOT YET ANSWERED:**

1. DO WE NEED TO REWRITE SECTION (4) TO SAY THAT REQUESTS CAN BE SUBMITTED FOR ONE SERVICE ONLY, BUT THAT THE STAFF WILL REVIEW THE COST OF SERVICE FOR BOTH SERVICES IN ARRIVING AT ITS RECOMMENDATION?
2. DO WE NEED TO ADD A REFERENCE TO STAFF BEING ABLE TO PROCESS A REQUEST WITH DEFICIENCIES [SEE SECTIONS (7) THRU (11)] UNDER "SPECIAL CIRCUMSTANCES" SUCH AS THE UTILITY BEING IN RECEIVERSHIP?
3. OPC'S CONCERNS REGARDING IT BEING REQUIRED TO FILE AFFIRMATIVE POSITION STATEMENTS NOTING THAT IT AGREES OR DISAGREES WITH THE PROPOSED INCREASE [SEE SECTIONS (22) AND (25)] VS. BEING ABLE TO FILE A POSITION STATEMENT THAT SAYS IT DOES NOT OPPOSE THE PROPOSED INCREASE.

**Small Company Rate Case Working Group**  
**Minutes of the Meeting of April 21, 2004**

**Meeting Participants**

Dale Johansen – PSC Staff (Team Leader)

Kim Bolin – Office of the Public Counsel

Diana Vuylsteke – MO Industrial Energy Consumers (via phone)

Neal Cleavenger – Raytown Water Company (via phone)

Brian McCartney – Brydon, Swearngen & England

Keith Krueger – PSC Staff

Kay Niemeier – PSC Staff

Greg Meyer – PSC Staff

John Cassidy – PSC Staff (via phone)

Cary Featherstone – PSC Staff

**Topics Discussed and Discussion Notes**

**I. Rules for the Meetings** (be clear and concise, and "play nice")

**II. Discussion Items Suggested by Group Members/Meeting Participants**

Jerry Finnegan (sent via e-mail prior to meeting since he could not attend)

- (1) initiate the request with a "formal" filing, such as a tariff filing, so that the 11-month overall time period applicable to formal large company rate cases would apply to small company rate increase requests

Discussion Notes: Concerns expressed by Dale J regarding tariff revisions being filed "up-front" for reasons such as ability of companies to create/file proper revisions, loss of benefit of the "informal" aspects of the process once a case is created, etc. Discussed possibility of applying the 11-month overall time period to the process via an amendment to the applicable rules. Some concern expressed by Staff members of doing this at all.

Neal Cleavenger

- (1) allowance for consultant expenses related to review of Staff audit results and recommendations regarding disposition of the request

Discussion Notes: Main concerns expressed by Staff and OPC representatives were directed toward the amount of such expenses that would be considered reasonable. No major general opposition to "some level" of such expenses being allowed.

- (2) development of a "How To" booklet related to small company rate increase procedure, including procedure overview, timeline, example documents, etc.

Discussion Notes: Dale J noted that many of the documents needed for such a booklet already exist and that it would thus be each to "construct" one; and also noted that this could be produced in hard copy and placed on the PSC's Website.

- (3) limiting overall time period involved to 11 months (same as formal rate case)

See discussion notes from above.

- (4) sharing of data requests and responses between Staff & OPC, or use of "shared" standard data requests, so that duplicate requests don't have to be answered; cap on number of data requests to be submitted to companies (Raytown received around 250 total between Staff & OPC in recent rate audit)

Discussion Notes: This is generally not a problem, would just need to work out the logistics. Excess number of DRs not generally a problem in small company cases.

- (5) likes the idea of generic proceedings for issues such as a "baseline" return on equity

#### Greg Meyer

- (1) consider holding the local public hearings earlier on in the process

Discussion Notes: Much discussion regarding logistics, whether this would really help, etc. Greg's main point is that the hearing should at least be held prior to the Staff actually signing an agreement with the company, for reasons of both perception and practicality. Dale J noted that one aspect of his proposed rewrite of the applicable rules addresses this matter to some degree by suggesting that an "informal" local public meeting could be held early on in the process. This issue will be discussed further at future meetings as part of the group's consideration of the rewriting of the rules.

### **III. Review of Dale J's Overview of the Small Company Rate Increase Procedure**

- (1) consent for extension of the 150-day tariff-filing deadline

Discussion Notes: Dale J noted a preference from at least one Commissioner for agreements for extensions of this deadline to be reduced to writing at the time they are made and for the agreements to be submitted to the EFIS Work File. As a result, the procedure related to this matter is being changed. (Dale J will update the procedure Overview and the generic Case Activities Timeline to reflect this change.)

- (2) submission of letters, public comment forms and contact logs regarding customer responses to notices of proposed increases to the EFIS Work File and/or Case File

Discussion Notes: Dale J noted a preference from at least one Commissioner for these documents to be submitted to the appropriate EFIS file in a more-timely manner. As a result, the procedure related to this matter is being changed. Neal C also noted that it would be helpful for the companies to receive copies of these documents so that it can respond to any service-related issues raised in a timely manner. (Dale J will update the procedure Overview and the generic Case Activities Timeline to reflect these changes.)

- (3) clarification of what the 150-day deadline stated in the rules really means

Discussion Notes: Cary F noted that there is confusion regarding this matter and that it needs to be clarified. Neal C agreed this could also be confusing to company personnel. It was suggested that the Overview document include examples of how long the overall process could take under varying circumstances, as are shown in the generic timeline. (Dale J will update the procedure Overview to clarify this matter.)

#### **IV. Review of Dale J's Generic Small Company Rate Case Activities Timeline**

- (1) addition of company activities and related target completion dates to the timeline for the initial 150-day period

Discussion Notes: Dale J noted a preference from at least one Commissioner for such target completion dates to be added to the timeline, with those dates to be reflective of the needs of the Staff to meet its target completion dates. As a result, this topic needs to be addressed by the Working Group. Neal C stated that he did not object to this idea. (This is an "assignment" for the next meeting.)

#### **V. Report Regarding Dale J's Draft Rewrite of the Small Company Rate Case Rules**

Dale J provided a brief overview of some of the major suggested changes in his draft

- (a) establishing a case, as that term is thought of traditionally, early on in the process rather than near the end of the process, which could possibly be a trigger for the application of the statutory 11-month rate case time period

Discussion Notes: Dale J noted that he might not want to pursue this matter unless the following matter can also be successfully pursued.

- (b) allowing company officers, owners or receivers to make filings and submissions in the case even if they are not licensed attorneys

Discussion Notes: This may be a tough one considering Supreme Court rules regarding what constitutes the practice of law. Dale J noted that this is done for certain types of matters before the Commission.

- (c) providing for testimony and hearing on certain "non-settled" issues

Discussion Notes: Cary F suggested considering arbitration-type approach rather than testimony/hearing process, as that could likely be done less expensively, but would only want to consider this if Commission RLJs act as the "settlement officer" for the process. Cary is also somewhat concerned about doing anything differently than is done now, since the overall process is already a benefit to the companies. Neal C said that "something" is needed in this regard and that either approach would be better than what we have now (the "take it or leave" approach). Dale J noted that the Commission rules already provide for an arbitration-type approach, but that it is seldom used. (Note: See Commission Rule 2.125)

## **GROUP WORK ASSIGNMENTS**

### **Dale J**

- (1) Send out report of this meeting no later than the end-of-business this Friday (04/23/04).
- (2) Update the procedure Overview and the generic Case Activities Timeline based on today's discussions.
- (3) Send out the updated procedure Overview and generic Case Activities Timeline, the current draft of the rule rewrite and copies of available documents related to the development of a "How To" booklet no later than Noon next Tuesday (04/27/04).

### **Group Members**

- (1) Be prepared to suggest additions of company activities and related target completion dates for the initial 150-day portion of the generic Case Activities Timeline.
- (2) Be prepared for discussions on Dale J's draft rewrite of the small company rate case procedure rules.
- (3) Be prepared to make decisions regarding what work products the group will produce, keeping in mind the May 19 deadline for producing them.

**NEXT MEETING – APRIL 28 – 9:00 A.M. to NOON**  
**ROOM 210 of G.O.B or DIAL-IN on 573-522-6044**



## **SMALL COMPANY RATE CASE WORKING GROUP**

### **MINUTES OF THE MEETING OF APRIL 28, 2004**

#### **MEETING PARTICIPANTS**

Dale Johansen – PSC Staff (Team Leader)

Neal Cleavenger – Raytown Water Company (via phone)

Rick Helms – Foxfire Utility Company and Roark Water & Sewer Company (via phone)

Ruth O'Neill – Office of the Public Counsel

John Cassidy – PSC Staff

Cary Featherstone – PSC Staff

Keith Krueger – PSC Staff

Greg Meyer – PSC Staff

Kay Niemeier – PSC Staff

#### **TOPICS DISCUSSED AND DISCUSSION NOTES**

##### **I. Additional Discussion Items Suggested by Meeting Participants**

Rick H

- (1) need for increase in communications during the entire process – particular need for this when problems become apparent

Discussion Notes: No disagreements among the meeting participants that better communications would be helpful to everyone involved.

- (2) sharing of "draft" audit results with company personnel earlier in the process

Discussion Notes: See notes below re: changes to the case activity timeline.

##### **II. Discussions Regarding Modifications to the Case Activity Timeline**

Greg M & John C

- (1) add a Day 60 point to the timeline representing the date by which information needed for the audit must be provided to the Staff, and providing that if this date is not met an extension to the Day 150 deadline must be agreed upon or the request will be "closed"
- (2) add a Day 75 point to the timeline representing the date by which construction projects must be completed for inclusion in the audit, and providing that if this date is not met that an extension of the Day 150 deadline must be agreed upon or the project will not be included in the revenue requirement calculation

- (3) add a Day 80 point to the timeline representing the date by which the company can assume that the review of the request is on target for completion by the Day 150 deadline unless the Staff notifies it otherwise
- (4) add a provision to the Day 140 point of the timeline noting that if the company does not respond to the Staff's settlement proposal by this date that an extension of the Day 150 deadline must be agreed upon or the request will be "closed"

Discussion Notes: No concerns expressed regarding these suggestions. Rick H and Neal C acknowledged that such additions are appropriate to ensure that the company is doing what it needs to do to keep the process on track.

#### Rick H

- (1) add a provision to the Day 90 point of the timeline noting that the Staff will provide the company with the audit information that is now only distributed internally among the Staff at this point
- (2) add a provision to the Day 100 point of the timeline noting that the company must respond to the initial audit information by that date or the Staff may assume that the company has not identified any major problems with the information

Discussion Notes: Cary F suggested that the Staff develop an overview of the case to provide to the company at this point rather than providing all of the documents since changes are often made to the actual accounting documents after the internal reviews. Rick H and Neil C agreed that an overview would suffice so long as it contained some level of detail regarding the Staff's audit results to that point.

#### Neil C

- (1) add a provision to the Day 55 and Day 175 points of the timeline noting that the Staff will provide customer letters, public comment forms and its customer contact log to the company

Discussion Notes: No problems with doing this, plus it was agreed that it would be helpful in ensuring that service problems are dealt with in a timely manner.

- (2) add a provision to the Day 10 point of the timeline noting that the Staff will provide the initial timeline for the case to the company – company and OPC should also be provided updated versions of the timeline anytime they are sent out to Staff

Discussion Notes: No concerns expressed about providing the initial timeline to the company or to providing updates as they are needed/created.

### **III. Discussions Regarding Changes to When Local Public Hearings are Held**

Greg M initially raised this issue in the context of the discussions regarding suggested changes to the case activities timeline; however, the discussions became much broader in scope than just that matter. Greg M's initial suggestion was that the determination as to whether a local public hearing will be requested be made somewhere around the Day 60 point in the process.

In general, there is consensus that it would most likely be beneficial for local public hearings to be held earlier on in the process, if held at all. However, it was also recognized that this would also likely mean that a formal case would also need to be established earlier on in the process so that the local public hearing could be "on the record".

It was also generally agreed that holding an informal "local public meeting" as contemplated by Dale J's draft rewrite of the small company rate case rule would not be sufficient to meet the needs that are met by holding an on-the-record local hearing.

One concern raised by Neil C is that basing the decision of whether to have a local public hearing on the response to the company's initial request may not be an accurate reflection of whether one is needed since the results of the Staff's audit will likely result in a smaller increase being agreed upon. Rick H agreed with this concern, but also noted that sooner would be better if there is going to be a local public hearing.

It was agreed that this issue would be discussed further at the group's next meeting, and that Dale J would inquire as to the need for a formal case to be established before an "on the record" local hearing could be held.

#### **IV. Discussions Regarding Dale J's Draft Rewrite of the Small Company Rate Case Rule**

- (1) moving local public hearing to earlier on in the process

Discussion Notes: See Above

- (2) use of limited-scope evidentiary hearings to resolve disputes regarding significant issues (see paragraphs 28 thru 32)

Discussion Notes: Agreement from Rick H and Neil C that something along these lines would be a major improvement over the current options – those being "take it or leave it" regarding Staff's settlement proposal, or the filing of a full blown formal rate case. Other participants (not sure who) suggested consideration of an arbitration type process rather than the proposed evidentiary hearing process. General agreement reached by the group as a whole that these options should be considered further and that one of them should be pursued, and that if workable the arbitration option would be preferred. Ruth O agreed to develop suggestions regarding an arbitration process to substitute for the hearing process.

- (3) putting rates resulting from agreed-upon issues into effect prior to completion of the evidentiary hearing process regarding disputed issues (see paragraph 29 and last sentence of paragraph 30)

Discussion Notes: Strong sentiment against this idea from Staff participants from the Auditing Department and from Ruth O. Acknowledgement also from Rick H and Neil C that this probably should not happen, in the interest of the final Commission decision being implemented at one time and not piece-meal, and in the interest of fairness to the dispute resolution option being made available to the companies. It was agreed that these provisions would be removed from the draft rewrite.

## **V. Discussion Regarding the Group's Report for the Upcoming Roundtable**

The Report should be a simple "bullet point" outline regarding the topics discussed and the recommendations being made, with references to appropriate attachments.

- A. "How To" booklet for the small company rate case process to be developed.
- B. Case Activities Timeline to be modified/updated consistent with the discussions held and the agreements reached.
- C. Procedure Overview document to be modified/updated consistent with the discussions held and the agreements reached.
- D. Rewrite of the small company rate case rules to be recommended, with draft developed based on discussions/agreements. (Major changes to be noted as sub-items: i.e. – establishing a formal case early on; additional "conditions" to be met in request letter; addition of arbitration process for dispute resolution; etc.)

## **WORK ASSIGNMENTS FOR NEXT MEETING**

### **Dale J**

- (1) Send out report of this meeting no later than the end-of-business this Friday (04/30/04).
- (2) Update the procedure Overview and the generic Case Activities Timeline based on discussions held and agreements reached to date.
- (3) Send out the updated procedure Overview and generic Case Activities Timeline, the current draft of the rule rewrite and copies of available documents related to the development of a "How To" booklet no later than Noon next Tuesday.

### **Ruth O**

Develop and distribute suggestions regarding the use of an arbitration process for dispute resolution as a substitute for Dale J's suggested testimony/hearing process.

### **Group Members**

- (1) Be prepared for further discussions regarding where to move the local public hearing to in the case activities timeline.
- (2) Be prepared for further discussions regarding Dale J's draft rewrite of the small company rate case procedure rules.
- (3) Be prepared for discussions regarding Ruth O's arbitration process draft language.
- (4) Be prepared to make decisions regarding what work products the group will produce, keeping in mind the May 19 deadline for producing them.

**NEXT MEETING – MAY 12 – 9:00 A.M. to NOON**

**ROOM 210 of G.O.B or DIAL-IN on 573-522-6044**

## **SMALL COMPANY RATE CASE WORKING GROUP**

### **MINUTES OF THE MEETING OF MAY 12, 2004**

#### **MEETING PARTICIPANTS**

Dale Johansen – PSC Staff (Team Leader)

Neal Cleavenger – Raytown Water Company (via phone)

Rick Helms – Foxfire Utility Company and Roark Water & Sewer Company (via phone)

Ruth O'Neill – Office of the Public Counsel

John Cassidy – PSC Staff (via phone)

Cary Featherstone – PSC Staff

Keith Krueger – PSC Staff

Greg Meyer – PSC Staff (via phone)

Kay Niemeier – PSC Staff

#### **TOPICS DISCUSSED AND DISCUSSION NOTES**

##### **I. Additional Discussion Items Suggested by Meeting Participants**

###### **Neil C**

- (1) insert a suggestion into the "How To" booklet regarding an informal pre-filing meeting being held between the company, the Staff and the OPC

Discussion Notes: It was agreed this should be added to the booklet.

- (2) make a "pass through" vehicle available for wholesale water costs

Discussion Notes: Main concern expressed by Staff and OPC is that of single-issue ratemaking. However, it was agreed that this topic warrants further discussion.

- (3) use of special ratemaking approaches, such as surcharges, "economic" depreciation rates or special amortizations, to provide for more timely recovery of financing costs where loan payback periods are much shorter than recovery provided by traditional rate-base-rate-of-return ratemaking

Discussion Notes: It was agreed that this topic needs much further discussion before any recommendations could be made. Dale J noted that he is not generally opposed to the theory, but also noted that several conditions would have to be in place before this approach should be used. Dale J further noted the similarity of this approach to that of the PSC/EIERA small company loan program, but also noted that conditions for using this approach to privately-obtained financing would likely have to be more stringent than those applied for qualifying for the PSC/EIERA loan program.

- (4) need for recognition and recovery of outside consulting fee expenditures necessary in order for the company to respond to Staff/OPC data requests and for review of the results of Staff's audit findings and recommendations

Discussion Notes: It was generally agreed that such costs would/should likely be recoverable, assuming that they were reasonable. However, it was also noted that this may be more of a company-specific issue rather than a general one due to the fact that most audits do not involve extensive data requests that would require outside assistance, in that they mostly only ask for information that the company has in its possession.

## **II. Discussions Regarding the Use of an Arbitration Process for the Resolution of Limited, Significant Items Upon Which at Least the Company and Staff Cannot Agree (alternative to Dale J's rule rewrite suggestion of a limited scope testimony/hearing process)**

General agreement that this process would work better than the limited scope testimony/hearing process as it could possibly be done more informally, but with similar results. Cary F raised the question of whether this would only be an option with the testimony/hearing process also being an option, particularly if an RLJ is the arbitrator. Ruth O's opinion was that this could only be an option since forced arbitration is not normally done. However, after further discussion it was determined that a testimony/hearing option would not be needed if the Commissioners set as an arbitration panel, rather than using an RLJ as an arbitration "officer". This could, however, mean that the company would need to be represented by counsel, which would not be the case if an RLJ acted as an "officer".

Rick H and Neil C both noted that they did see it being a problem if the company was required to be represented by counsel as that would most likely occur anyway. Rick H also raised the issue of allowing requests for arbitration to be submitted by a party in those situations where agreement to go to arbitration is not reached. Ruth O noted this could be allowed and it was agreed to incorporate this approach into the suggested process.

It was agreed that Ruth O would modify her original draft of this approach to reflect the Commissioners acting as an arbitration panel, with the option available to parties to request arbitration, and that this would be the recommended approach for the resolution of limited, significant disputes.

## **III. Discussions Regarding the Establishment of a Formal Case Earlier in the Process**

Regarding this topic, Dale J first reported that he had contacted Dale Roberts regarding this matter as it relates to the need for the company to be represented by counsel and had been advised that representation by counsel for most case related activities, particularly those involving the filing of pleadings and appearances before the Commission, is required once a case is established. (This means that Section 2 of Dale J's proposed rule rewrite will need to be removed.)

After much discussion about the pros of having a case established earlier (particularly the development of a more complete record in one location in EFIS) and the con of the company having to be represented by counsel at that point, it was agreed that the pros outweigh that con considerably.

As an alternative to Dale J's draft rule rewrite proposal of having a formal case established "immediately", Keith K suggested that this not happen at least until such time that is determined that a local public hearing will be requested.

Because there really is not many activities that the company is involved in during the process, and the fact that this will not change if a case is established earlier, it was agreed to keep the case establishment timing as set out in Dale J's draft rule rewrite.

#### **IV. Discussions Regarding Changes to When Local Public Hearings are Requested/Held**

As discussed and agreed to in earlier meetings, the timing of the local public hearing will be moved to be earlier in the process. The general agreement reached during this meeting was to target the current Day 90 to Day 120 time frame for when the hearing would be held, along with the needs for earlier deadlines regarding the request being submitted and a notice being sent to customers. Additionally, it was also noted that this might require an extension of the Day 150 deadline for the filing of agreed-upon tariff revisions. Dale J will work on this matter in conjunction with his other updates to the Case Activities Timeline.

After meeting thoughts by Dale J: Are we going to get into a serious enough bind here time-wise that we should suggest that the Day 150 deadline for filing agreed-upon tariff revisions be changed to a Day 180 deadline?

#### **FINAL WORK ASSIGNMENTS (unless requested, no more meetings will be held)**

##### **Dale J**

- (1) Send out report of this meeting, and the prior meeting, no later than the end-of-business this Friday (05/14/04).
- (2) Update the procedure Overview, the Case Activities Timeline and the draft rule rewrite based on discussions held and agreements reached to date.
- (3) Identify available documents that can/should be included in the "How To" booklet.
- (3) Draft the Working Group's report for the May 26 Case Efficiency Roundtable.
- (4) Send out all relevant documents for the group's review and comments as soon as possible, but no later than Noon next Wednesday (May 19).

##### **Ruth O**

Modify the arbitration process document to reflect the Commissioners acting as an arbitration panel, and distribute the updated document to the group as soon as possible, but no later than Noon next Wednesday (May 19).

##### **Group Members**

- (1) Be prepared to review and comment on the documents that Dale J and Ruth O will be sending out, with that review to be done as quickly as possible since the group's report must be ready for distribution next Friday (May 21).